IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.19936 of 2006

Date of Decision: February 13,2007

Baba Mehar Singh Memorial College of Education. .....Petitioner

Versus

Guru Nanak Dev University, Amritsar & others .....Respondents

CORAM:- HON'BLE MR.JUSTICE J. S. KHEHAR
HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr. N.S. Shekhawat, Advocate
for the petitioner.

Mr. D.S. Patwalia, Advocate
for respondent No.1.

Mr. B.S. Chahal, Assistant Advocate General, Punjab.
for respondent No.2,

Mr. Vinod S. Bhardwaj, Advocate,
for respondent no.3.

Mr. H.K. Sharma, Advocate,
for respondent No.4.

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S. D. ANAND, J.

1. The National Council for Teachers Education Act, 1993, amended by the National Council for Teachers Education (Amendment and Validation) Ordinance, 2006 (hereinafter referred to as NCTE) governs the issue of grant of recognition to the Institutions offering or intending to offer a course or training in Teachers Education. For ensuring planned and co-ordinated development of teachers education and for the determination and

maintenance of standards for teachers education, the Regional Committee of the NCTE satisfies itself that the Institution applying for the grant of recognition has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the Institution for a course or training in teachers education, as may be determined by regulations. If the Committee is satisfied that the applicant-institution has fulfilled the norms, the recognition would be accorded. In case there is a default, the order would be otherwise.

2. The petitioner – Institution had applied for the grant of affiliation for the period 2006-2007. In the course of consideration of its request for the grant of NOC, the inspection of the petitioner – institution was conducted by the officials of respondent No.2 on 6th, 7th and 8th July 2006. Certain infrastructural deficiencies were noticed. Those officials were informed that further action would be taken only after affiliation is granted by respondent No.1. At the time of the grant of initial affiliation as well, an inspection was carried out on 29.6.2005. The inspection team comprised of Dr. A.S.Dua (Dean CDC GNDU Amritsar), Dr. Pritam Singh (Retd. Pl.), Dr. Aruna Anand, Principal DAV College of Education, Amritsar and Shri Harjit Singh OSD (Accounts) GNDU, Amritsar. The inspection report is available on the file as Annexure P-6. Thereafter, letter dated 20.7.2006 (Annexure P-7) was addressed by respondent No.1 to "The Principals of all the B.Ed. Colleges affiliated with this University" including the petitioner requiring them to intimate the fulfilment of the conditions which had been imposed while granting provisional affiliation for the period 2005-06. The petitioner – institution responded vide letter dated 24.7.2006 (Annexure P-8) and intimated that some of the requirements had been met;

while the appointment of the Principal could not be made as none applied for the post afore-mentioned. Vide letter dated 11.8.2006 (Annexure P-9), respondent No.1 again addressed to "All the Chairman/Principal of all the B.Ed. affiliated with University" requiring them to make up the short-fall of the relevant appointments within a period of two months. On account of the non-fulfilment of the conditions, a fine of Rs. One lac was imposed by respondent No.1 upon the petitioner (Annexure P11).

3. As the grant of affiliation did not come about, the petitioner – Institution had to, ultimately, approach this Court by filing Civil Writ Petition No.15503 of 2006.

4. In that matter, a Committee was appointed by this Court (while disposing it of) to go into the aspect whether the requisite requirement had been met by the petitioner before the cut off date or not. The Committee (consisting of an Additional Secretary, Higher Education, Department of Punjab and the Registrar of respondent No.1) examined the records of the University as well as the concerned Colleges (in terms of the directions issued by this Court in the aforesaid matter) in the presence of the representatives of Managements of all the concerned Colleges who were also heard personally and opportunity was given to them to submit their claims as per the directions of the Hon'ble High Court. The Committee recorded the following finding qua the petitioner-Institution.

> "Baba Mehar Singh Memorial College of Education, Purana Shalla, Gurdaspur.
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> This college was granted provisional affiliation by the University from the session 2005-06. During the complete session, no regular lecturers were appointed by the College.

> The college was well aware of its obligation to recruit regular qualified teachers before the start of admission process for the current session. Inspite of this, the colleges approached the University only on 15.09.06 to fix the date of interview for recruitment of lecturers and it was not in any way possible to complete the recruitment process before 20.9.06 as stipulated. Subsequently the college held interviews and submitted the cases of 4 lecturers on 3.10.06. the college having not met the condition of recruiting requisite number of regular and adhoc lecturers before 20.9.06 could not be allowed to admit students for the session 2006-07. The committee finds the action of the University in order and as per rules."

5. The plea advocated on behalf of the petitioner is to the effect that the affiliation cannot be denied to the petitioner-Institution, inasmuch as the compliance of essential requirements had been intimated to respondent No.1 vide letter No.BMSM/05/E-47 dated 12.1, to which reference has been made in the course of letter dated 24.7.2006 (Annexure P8) and it had been categorically explained, in the course of Annexure P8 itself, that the appointment of Principal could not be made as none applied for the post aforementioned inspite of the fact that applications for the purpose had been invited through a public notice. Yet another plea urged on behalf of the petitioner is that the respondents are estopped from denying affiliation inasmuch as it was on their asking that the continuation fee of Rs.10,000/- had been deposited by it. Grievance was also made of what was described as obdurate stance adopted by respondent No.1 (Guru Nanak Dev University) in the matter as against the stance adopted by the Punjab and

Punjabi Universities.

6. On appreciation of the arguments aforementioned, in the light of the material available on the file, we find that the petitioner is not on a firmer footing. It is beyond the pale of controversy that the inspection team did point out the want of certain infrastructural facilities. It is neither here nor there for the petitioner to argue that the Punjab and Punjabi Universities, which too are located in the State of Punjab, a benevolent view has been taken by the Authorities concerned in the matter of affiliation. On the factual front, learned counsel was not in a position to dispute the correctness of the finding recorded by the Committee. The mere averment that respondent No.1 (Guru Nanak Dev University, Amritsar) had adopted an 'obdurate' stance would not solve the riddle for the petitioner when the plea raised is tested on the touchstone of legality. Rules are meant for meticulous compliance. Instances may be conceivable when, in a case of hardship, the competent authority may adopt a liberal attitude in the context. In that case, the similarly circumstanced may be able to urge similar treatment on principle of equality and fair play. If the matter pertains to different Universities, the view taken by a particular competent authority – University cannot be said to be binding upon another University. The plea raised on behalf of the petitioner shall stand negatived accordingly.

7. The Committee, appointed in terms of order dated 7.11.2006 of this Court in Civil Writ Petition No.15503 of 2006, conducted its proceedings in the presence of the representatives of the Management of the concerned Institutions. The records of those Institutions are recorded to have been perused by the committee which also afforded an opportunity of hearing to all the Management representatives including the representative

of the petitioner-Institution. The petitioner is not proved to have made any presentation before the Committee that all the infrastructural deficiencies pointed out by the inspection team, vide Annexure P6, had been removed. As would be evident from the perusal of para No.4 of this judgment, the Committee examined the records of the petitioner-Institution and after noticing that though it did have four net qualified lecturers before the cut off date i.e. 20.9.2006, it had not provided any other information regarding the recruitment of three adhoc lecturers upto the cut off date i.e. 20.9.2006. It was for want of relevant information that the team was unable to verify whether the petitioner college had requisite teaching staff as stipulated in the Govt. Memo dated 11.9.2006 or not. The information allegedly furnished vide letter dated 12.1 is irrelevant to the present issue. It is, thus, too late for the day for the petitioner to argue that the Committee finding proceeds on a factually incorrect premise.

8. Insofar as the payment of the demanded continuation fee is concerned, that too would not solve the riddle for the petitioner. It is a matter of common observation that such like demands are raised in routine. As would be apparent from a perusal of Annexure P-10 (i.e. the impugned letter vide which the continuation fee for the period 2006-07 had been demanded), it is addressed to "The Principal of all the Colleges affiliated to this University". The mere addressing of this letter by the University would not, in any manner, enable the petitioner to plead for the raising of an inference that the affiliation for the period 2006-07 (which is in controversy in the present writ petition) stood granted. The grant of affiliation has to be a positive and conscious act on the part of the University. The drawal of the advocated inference would not, at all, be in order particularly when there is a

positive finding recorded by the inspecting team that the record presented before it by the management and also perused by it did not indicate compliance on the part of the petitioner qua the fulfilment of the infrastructural deficiencies pointed out earlier. The inference aforesaid would not be allowable.

9. The Committee appointed by this Court while disposing of Civil Writ Petition No.15503 of 2006, found deficiency in the matter of infrastructural requirements which are not even averred to have been fulfilled by the petitioner till date. The position that can, thus, be safely culled out from the above discussion is as under:-

While granting provisional affiliation to the petitioner for the academic session 2005-06, certain conditions had been imposed upon it by the N.C.T.E. As the fulfilment of those conditions had not been intimated by the petitioner, a reminder dated 20.7.2006 (Annexure P-7) was issued by respondent No.1. The Committee (appointed by this Court in Civil Writ Petition No. 15503 of 2006) inspected the records of the petitioner and also heard its management representative on 22.11.2006 and recorded a positive record-based finding that, "this College was given provisional affiliation for the session 2005-06. But no regular lecturer was appointed for the entire session. The College was well aware that it is obligatory on them to recruit proper teaching staff before the admissions of 2006-07. After examining the record of this college, it was observed that the college was having four NET qualified lecturers before the cut off date i.e. 20.9.2006. The college did not provide any information regarding the recruitment of 3 ad hoc lecturer upto 20.9.2006 and the University could not verify whether the college had requisite teaching staff as stipulated in the Govt. Memo. Dated 11.9.2006.

Thus the college could not be given permission to admit the students for the current session having failed to meet the requirements of staff as explained. On the basis of the above facts, the committee finds the action taken by the University to be as per rules." Except the bald averment in the course of arguments, there is nothing on the record to indicate that the finding afore-mentioned recorded by the Committee is factually incorrect.

10. For the reasons recorded in the preceding paras, we find no force in the petition. The Committee findings are not proved to be suffering from any factual or rule - related infirmity.

12. Dismissed.

(S. D. ANAND)
JUDGE

(J. S. KHEHAR)
JUDGE

February 13, 2007
VKD/SRM